

WRONGFUL DEATH AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill expands the definition of "heirs" to include a wrongful death designee.

Highlighted Provisions:

This bill:

- ▶ defines wrongful death designee as a person who:
 - is designated as the only wrongful death heir in the decedent's will, trust, or other notarized written directive; and
 - has been adjudicated by a court of competent jurisdiction, by clear and convincing evidence, to have had a mutual supportive and dependent relationship with the decedent; and
 - provides minor children with priority over other heirs in the event of a wrongful death settlement.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-3-105, as renumbered and amended by Laws of Utah 2008, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78B-3-105** is amended to read:

78B-3-105. Definition of heir.

(1) As used in Sections 78B-3-106 and 78B-3-107[, "~~heirs~~"]:

(a) "Heirs" means~~[-(1)]~~ the following surviving persons:

~~[(a)]~~ (i) (A) the decedent's spouse; or

(B) if no spouse, the decedent's wrongful death designee as defined in Subsection (2);

~~[(b)]~~ (ii) the decedent's children as provided in Section 75-2-114;

(iii) the decedent's stepchildren who:

(A) are in their minority at the time of decedent's death; and

(B) are primarily financially dependent on the decedent; and

~~[(c)]~~ (iv) the decedent's natural parents, or if the decedent was adopted, then ~~[his]~~ the decedent's adoptive parents[;].

~~[(d) the decedent's stepchildren who:]~~

~~[(i) are in their minority at the time of decedent's death; and]~~

~~[(ii) are primarily financially dependent on the decedent.]~~

~~[(2)]~~ (b) "Heirs" ~~[means]~~ includes any blood relative as provided ~~[by the law of~~
~~intestate succession if]~~ in Title 75, Chapter 2, Intestate Succession and Wills, only when the
decedent is not survived by ~~[a]~~ at least one person under ~~[Subsections]~~ Subsection (1)(a)[, (b),
~~or (c)]~~.

(2) "Wrongful death designee" means a person who:

(a) is designated as the sole wrongful death heir in the decedent's will, trust, or other
notarized written directive; and

(b) has been adjudicated by a court of competent jurisdiction, by clear and convincing
evidence, to have had a mutually supportive and dependent relationship with the decedent.

(3) In determining whether a person has been in a mutually supportive and dependent
relationship with the decedent, a court of competent jurisdiction must find by clear and
convincing evidence that, at the time of the decedent's death:

(a) the person shared a residence with the decedent;

(b) the decedent designated the person as the beneficiary of the decedent's:

(i) retirement benefit;

(ii) health insurance policy; or

(iii) will or trust; and

(c) the person and decedent comingled assets and shared liabilities.

(4) If damages are awarded or a settlement is reached as a result of a wrongful death
action, satisfaction of any award of damages to or settlement in favor of plaintiff minor
children, if any, shall be given priority over the satisfaction of any award of damages to or
settlement in favor of other plaintiff heirs.

